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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,636

10/20/2003

Patrick Rambaud

0501-1017-1

1794

466

7590

06/23/2009

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EXAMINER

WHALEY, PABLO S

ART UNIT

PAPER NUMBER

1631

MAIL DATE

DELIVERY MODE

06/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/687,636	Applicant(s) RAMBAUD, PATRICK	
	Examiner PABLO WHALEY	Art Unit 1631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,2,15-18,20,21,25 and 30-34.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/John S. Brusca/
 Primary Examiner, Art Unit 1631

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's amendment After Final, filed 05/14/2009, will be entered for the following reasons: Applicant' has placed the application in better form for appeal by correcting typographical errors.

Applicant's arguments, filed 05/14/2009, regarding the rejection of claim 1 under nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7 of U.S. Patent No. 6,415,201 (Issued Jul. 2, 2002) in view of Lefesvre et al. (WO/1999/053030; Publication Date: 10/21/1999, p.1-5) have been fully considered and are persuasive. Therefore this rejection is withdrawn.

In response to applicant's arguments that Lefesvre does not teach determining a protocol of deferred use, Lefesvre shows extracting selected cells from a personal library according to deferred use protocols for re-using lymphocytes in the patient [p.4, ¶ 2, and p.4, ¶7 onwards]. Therefore Lefesvre does not teach away from instant invention since the claims require reusing cells in patients.

In response to applicant's arguments that Lefesvre does not teach constituting from the collected cells, a personal cell library of immunocompetent cells containing a sum of immunity information stored in the membranes of the collected immunocompetent cells for determining the subject's identity data including immunity-related data, historical and clinical data on previous diseases, treatments and therapeutic protocols experienced by said subject, Lefesvre teaches personal libraries obtained from successively taken batches for preserving immunizing information taken from immuno-qualified cells, and processing of information that includes cellular identification, immunity related information, and gene therapy protocol information [p.2, ¶8, p.2, ¶ 12], and means for storing and managing this information [Fig. 1, p.3]. In addition, Lefesvre teaches processing of blood that inherently yields information indicative of the status of health of the patient [p. 1 and Fig. 1], and processing of information that includes cellular identification, immunity related information, and gene therapy protocol information [p.2, ¶8, p.2, ¶ 12].

In response to applicant's arguments that Lefesvre does not teach database cell management or an expert system, Lefesvre teaches a cell management database system[p.3, ¶1-¶3], and processing of the database based on patient specific requests [p.4, last ¶, p.4]. Lefesvre teaches extracting selected cells from a personal library according to deferred use protocols in view re-using lymphocytes in the patient [p.4, ¶ 2, and p.4, ¶7 onwards]. Lefesvre does not teach specifically teach performing an identification of batches of cells by consulting a cell management database, as in claim 1. However, this limitation would have been obvious to one of ordinary skill in the art since Lefesvre teaches cell management system that determines the localization and cellular identification of specific batches for processing [p.4, ¶1] and provides a database that can be queried by a user to obtain information [p.3, last ¶]. The motivation would have been to improve system productivity using the latest computer-based methods for identifying batches of cells, as suggested by Lefesvre [p.3, ¶10 onwards]. In response to applicant's arguments that Lefesvre does not teach gathering status-characterizing information, Lefesvre teaches the collection of information obtained by the processing of blood that inherently yields information indicative of the status of health of the patient [p. 1 and Fig. 1, and p.4, ¶ 2, and p.4, ¶7 onwards].

In response to applicant's arguments that the combination of Lefesvre and Cha would not have been obvious as not motivation was provided, the motivation would have been to improve the management system by including well known techniques for obtaining bioelectronic data that provides for more accurate blood information measurements, suggested by Cha et al. [p.136, ¶ 3 and 4]. Therefore, the examiner maintains that the combination of references teaches and/or makes obvious the claimed limitations.